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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,842	09/25/2003	Michael D. Brookshire	121236.00003	9648
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QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			EXAMINER REESE, DAVID C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,842

Applicant(s)

BROOKSHIRE, MICHAEL D.

Examiner

David C. Reese

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,10,13-16,21,23-25,27,28 and 40-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8,10,13-16,21,23-25,27,28 and 40-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

THIS FINAL ACTION IS RESPONSIVE TO THE AMENDMENT FILED 8/31/2006.

- Claims 2, 6, 9, 11-12, 17, 20, 22, 26, and 29-39 were canceled.
- Claims 40-56 were added.
- Claims 1, 3, 13, and 23 were amended.
- Claims 1, 3-5, 7-8, 10, 13-16, 21, 23-25, 27-28, and 40-56 are pending.

Information Disclosure Statement

[1] The IDS was previously objected for informalities. In view of Applicant's remarks submitted on 8/31/2006, all previous objection(s) to the IDS have not been withdrawn. A newly submitted compliant IDS form was not submitted with the instant amendment as stated by applicant ("applicant will re-transmit the information disclosure statement in question"). Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Drawings

[2] The drawing(s) were previously objected for informalities. In view of Applicant's amendment to the claims(s) submitted on 8/31/2006, all previous objection(s) to the drawings have been withdrawn.

However, as amended, the drawings are also objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the apex of the dome-shaped crown having less surface area than each facet from the sets of facets" from claims 1, 46, 50, and 55-56 must be shown (fig. 5 does not show the apex, only the top

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(fifth) set of facets) or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

[3] Claim(s) 3 was previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 8/31/2006. Accordingly, the objection(s) to the claim(s) 3 has been withdrawn.

Claim Rejections - 35 USC § 102

[4] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[5] Claims 40 and 47-48 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Stafford, US-D370642, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

The shape and appearance of Stafford is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 40, Stafford discloses of a cut gemstone (see figure below), comprising:
a pavilion (1) having a plurality of facets (2) disposed from a girdle (3) to a culet (4); and
a dome-shaped crown (5) disposed above the girdle (3), wherein the girdle (3) extends no further than a widest circumference (bottom of 5) of the dome-shaped crown (5) and the pavilion (1) extends no further than a widest circumference of the girdle (3), the dome-shaped crown (5) formed from a plurality of sets of facets (6) cut with monotonically decreasing angles to form a curved contour in accordance with a dome shape from the girdle (3) to an apex (7) of the dome-shaped crown (5), each facet (6) within the sets of facets (6) being polygonal in shape with opposing corners of the polygon nested between adjacent facets (6).

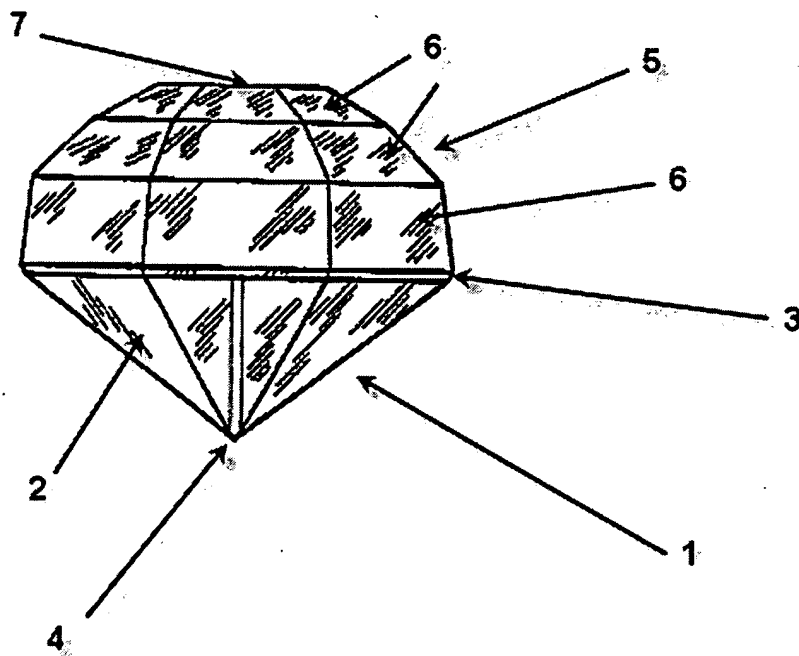
As for Claim 47, Stafford discloses of a cut gemstone (see figure below), comprising:

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a pavilion (1) having a plurality of facets (2) disposed from a girdle (3) to a culet (4); and

a dome-shaped crown (5) disposed above the girdle (3), wherein the girdle (3) extends no further than a widest circumference (bottom of 5) of the dome-shaped crown (5) and the pavilion (1) extends no further than a widest circumference of the girdle (3), the dome-shaped crown (5) formed from a plurality of sets of facets (6) cut with monotonically decreasing angles to form a curved contour in accordance with a dome shape from the girdle (3) to an apex (7) of the dome-shaped crown (5).

Re: Claim 48, wherein each facet (6) within the sets of facets (6) is polygonal in shape with opposing corners of the polygon nested between adjacent facets (6).



Claim Rejections - 35 USC § 103

[6] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

[7] Claims 41, 44-46, 49-51, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford, US-D370642.

Stafford discloses of the above claims.

The difference between the claim and Stafford is that Stafford does not expressly disclose that the dome-shaped crown (5) is formed from at least five sets of facets (claims 44, 54); that each facet (6) within the set of facets (6) being hexagonal in shape (claims 45, 49); and that the apex (7) of the dome-shaped crown (5) has less surface area than each facet (6) from the sets of facets (6) (claims 46, 50); and that the plurality of facets of the pavilion are each cut to an angle of about 40.75 degrees (Claims 41, 51) It would have been an obvious matter of design choice to modify Stafford (adding additional sets of facets between the girdle and apex of the crown so as to go from 3 sets to at least 5 sets of facets), since applicant has not disclosed that such a particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no

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unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

The same argument can be applied to the aspect of the shape of the facets within the sets of facets, and of the apex having less surface area than each facet within the sets of facets, and that the plurality of facets of the pavilion are each cut to an angle of about 40.75 degrees; that is, it appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

[8] Claims 1, 3-5, 13-16 and 23-25, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford, US-D370642.

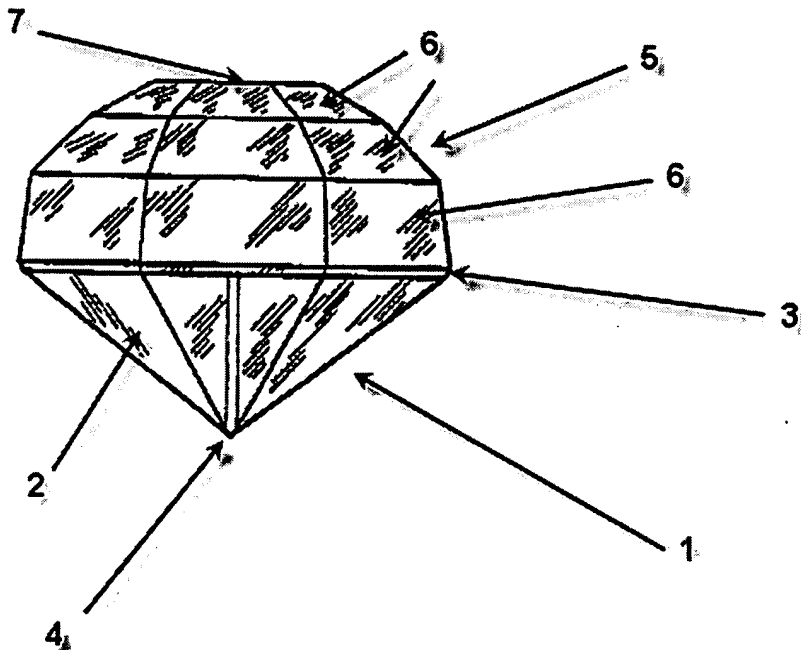
Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 1, Stafford teaches of a diamond (see figure below), comprising:

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a pavilion (1) having a plurality of facets (6) disposed from a girdle (3) to a culet (4), each of the plurality of facets (6) having a continuous flat surface extending from the girdle (3) to the culet (4), wherein an edge of a first adjoining facet contacts an edge of a second adjoining facet along a common radial boundary; and

a dome-shaped crown (5) disposed above the girdle (3), wherein the girdle (3) extends no further than a widest circumference (bottom of 5) of the dome-shaped crown (5) and the pavilion (1) extends no further than a widest circumference of the girdle (3), the dome-shaped crown (5) formed from sets of facets cut with monotonically decreasing angles to form a curved contour in accordance with a dome shape from the girdle (3) to an apex (7) of the dome-shaped crown (5), each facet (6) within the sets of facets (6) nested between adjacent facets (6), each of the sets of facets (6) having monotonically decreasing surface area from the girdle (3) to the apex (7) of the dome-shaped crown (5).



The difference between the claim and Stafford is that Stafford does not expressly disclose that the dome-shaped crown (5) is formed from at least five sets of facets; that each facet (6) within the set of facets (6) being hexagonal in shape; and that the apex (7) of the dome-shaped crown (5) has less surface area than each facet (6) from the sets of facets (6). It would have been an obvious matter of design choice to modify Stafford (adding additional sets of facets between the girdle and apex of the crown so as to go from 3 sets to at least 5 sets of facets), since applicant has not disclosed that such a particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

The same argument can be applied to the aspect of the shape of the facets within the sets of facets, and of the apex having less surface area than each facet within the sets of facets; that is, it appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting

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properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

As for Claims 3-4, Stafford teaches of the above claim.

The difference between the claim and Stafford is that Stafford does not expressly disclose that the plurality of facets of the pavilion are each cut to an angle of about 40.75 degrees (Claim 3) and that said plurality totals at least sixteen in number (Claim 4).

It would have been an obvious matter of design choice to modify Stafford (by altering said angle and number of facets of the pavilion), since applicant has not disclosed that such a particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

Re: Claim 5, wherein the pavilion (1) is substantially conical in shape.

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As for Claim 13, Stafford teaches of a diamond (see figure below), comprising:

a pavilion (1) extending from a girdle (3) to a culet (4), wherein the girdle (3) extends no further than a widest circumference of the crown (5) and the pavilion (1) extends no further than a widest circumference of the girdle (3); and

a crown (5) in the form of a symmetrical hemisphere formed from at least five sets of facets (in view of remarks above) between the girdle (3) and an apex (7) of the crown (5) having a first set of facets (first 6) disposed above the girdle (3) and a second set of facets (second 6) disposed between the first set (first 6) of facets and an apex (7) of the crown (5), wherein the first set of facets (first 6) is cut at a first angle with respect to a reference line which is tangential to the apex (7) of the crown (5) and the second set of facets (second 6) is cut at a second angle with respect to the reference line which is less than the first angle, each facet (6) within the first and second sets of facets (6) being hexagonal in shape with opposing corners of the hexagon nested between adjacent facets (in view of remarks above).

Re: Claim 14, wherein each of the plurality of facets (2) of the pavilion (1) are symmetrically disposed and extend continuous from the girdle (3) to the culet (4).

As for Claims 15-16, and 25 (dependent upon Claim 23, see below), Stafford teaches of the above claims.

The difference between the claim and Stafford is that Stafford does not expressly disclose that the plurality of facets of the pavilion are each cut to an angle of about 40.75 degrees (Claims 15, and 25) and that said plurality totals at least sixteen in number (Claim 16).

It would have been an obvious matter of design choice to modify Stafford (by altering said angle and number of facets of the pavilion), since applicant has not disclosed that such a

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particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

As for Claim 23, Stafford teaches of a diamond (see figure above), comprising:

a pavilion (1) having a plurality of facets (2) disposed from a girdle (3) to a culet (4); and
a dome-shaped crown (5) disposed above the girdle (3), wherein the girdle (3) extends no further than a widest circumference of the dome-shaped crown (5) and the pavilion (1) extends no further than a widest circumference of the girdle (3), the dome-shaped crown (5) formed from a at least five sets (in view of that discussed from Claim 1 above) of facets (6) cut with monotonically decreasing angle to form a curved contour in accordance with a dome shape from the girdle (3) to an apex (7) of the dome-shaped crown (5), each facet (6) within the first and second sets of facets (6) being hexagonal in shape with opposing corners of the hexagon nested between adjacent facets (in view of remarks above).

Re: Claim 24, wherein each of the plurality of facets (2) of the pavilion (1) are symmetrically disposed and extend continuous from the girdle (3) to the culet (4).

Re: Claim 55-56, wherein the apex (7) of the crown (5) has less surface area than each facet from the sets of facets (6) (in view of remarks from claim 1).

[9] Claims 7-8, 10, 18-19, 21, 27-28, 30, 42-43, and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stafford, US-D370642, in view of Almaraz, US-D443,244.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claims 7-8, 10, 18-19, 21, 27-28, 30, 42-43, and 52-53 Stafford teaches of the above claims.

The difference between the claim and Stafford is that the claims recite: of the first set of facets being cut about 90 degrees, the second set being cut about 75 degrees (Claims 7, 18, and 27, 42, and 52), the third set about 65 degrees, a forth set of facets being cut about 55 (56) and fifth set cut about 45 (46) degrees (Claims 8, 19, and 28, 43, 53; and 10, 21, and 30, respectively), all of which with respect to a reference line which is tangential to the apex of the dome-shaped crown. Almaraz discloses a dome-shaped structure with a plurality of sets of facets (a first through fifth set), said set of facets being cut with monotonically decreasing angles; as well as each set of facets having monotonically decreasing surfaces areas. It would have been obvious to one of ordinary skill in the art, having the disclosures of Stafford and Almaraz before him at the time the invention was made, to modify the crown of Stafford to include greater than three sets of facets, as in Almaraz. One would have been motivated to make such a combination

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because one would want to achieve that exact design (spiral design more specifically), as shown by Almaraz in Fig. 1. Further, with respect to the exact degrees being claimed for each set of facets, as described above, it would have been an obvious matter of design choice since applicant has not disclosed that such a particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford in view of Almaraz. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone.

Response to Arguments

[10] Applicant's arguments filed 8/31/2006 regarding rejections under 35 U.S.C. 103 have been fully considered but they are not persuasive. To begin, the applicant states that Stafford does not teach or suggest a crown in the form of a symmetrical hemisphere. The examiner disagrees, and directs the applicant to reference numeral (5) in the submitted figure above. It is pertinent to point out that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974), and that things clearly shown in reference patent drawings qualify as prior art features, even though unexplained by the specification. *In re Mraz*, 173 USPQ 25 (CCPA 1972).

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As far as the arguments concerning the number, size, shape, and angles of various facets on the given gemstone, the examiner maintains his position that it would have been an obvious matter of design choice to modify Stafford (later in view of Almaraz), since applicant has not disclosed that such a particular orientation creates any unexpected result. It appears that the invention would perform equally well as the invention disclosed by Stafford. It is extremely old, well known, readily apparent and profoundly obvious to change the size, shape, number, orientation, angles, percentages, and create ranges for facets and the gemstone in its entirety as to merely alter the aesthetics of said gemstone for the corresponding and resulting properties including brilliance, radiance, etc. for the utility of mere user preference. It is also extremely well known that altering said features will produce different properties radiating from said gemstone, depending on the changes and alterations made. Therein, once again, lies the pertinence behind such, as no unexpected result, viewed by one skilled in the art; will occur, with any of the above possible changes or alterations to any given gemstone. Once again, the examiner maintains that the prior art can be encompassed as such.

An application should not be allowed, unless and until issues pertinent to patentability have been raised and resolved in the course of examination and prosecution, since otherwise the resultant patent would not justify the statutory presumption of validity (35 U.S.C. 282), nor would it “strictly adhere” to the requirements laid down by Congress in the 1952 Act as interpreted by the Supreme Court. The standard to be applied in all cases is the “preponderance of the evidence” test. In other words, an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable. See MPEP 706.

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Lastly, the examiner would also like to state that in the event that there is allowable subject matter, said subject matter may reside more in the design aspects of the invention.

Conclusion

[11] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

[12] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DCR



9/21/06

David Reese
Assistant Examiner
Art Unit 3677



Katherine Mitchell
Primary Examiner